

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Suzanne Donnelly	Team: Team # 2	CCRB Case #: 200616191	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 11/29/2006 11:55 PM	Location of Incident: West 130 Street & Frederick Douglass Blvd (8th Ave)	Precinct: 32	18 Mo. SOL 5/29/2008	EO SOL 5/29/2008	
Date/Time CV Reported Wed, 11/29/2006 11:58 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 12/05/2006 4:09 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Erik Pilger	31865	933182	PBMN TF
3. LT Christophe Schmidt	00000	907284	PBMN TF
4. POM Carlos Pava	28246	921662	032 PCT
5. POM Christop Derenze	14421	937903	032 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Christophe Schmidt	Abuse: Lieutenant Christopher Schmidt stopped § 87(2)(b)	
B.LT Christophe Schmidt	Force: Lieutenant Christopher Schmidt used pepper spray against § 87(2)(b)	
C.POM Erik Pilger	Force: Police Officer Erik Pilger struck § 87(2)(b) with an asp.	
D.LT Christophe Schmidt	Force: Lieutenant Christopher Schmidt used physical force against § 87(2)(b)	
E.POM Erik Pilger	Force: Police Officer Erik Pilger used physical force against § 87(2)(b)	
F.POM Carlos Pava	Force: Police Officer Carlos Pava used physical force against § 87(2)(b)	
G.POM Christop Derenze	Force: Police Officer Christoper Derenze used physical force against § 87(2)(b)	
H. Officers	Force: Officers used physical force against § 87(2)(b)	

Synopsis

On November 29, 2006, § 87(2)(b) called 911 and was transferred to IAB, at which point she filed a complaint regarding an incident she had just witnessed, involving a vehicle stop and the arrest of an unidentified male. § 87(2)(b)'s complaint was forwarded to the CCRB on December 5, 2006. § 87(2)(b) who was later identified as the victim in this complaint, alleged that minutes before midnight on November 29, 2006, he had pulled over his vehicle at West 130th Street and 8th Avenue to drop off his friend, § 87(2)(b), when two officers, Lt. Christopher Schmidt and PO Erik Pilger, pulled up behind him in their RMP, exited their vehicle, and approached him (Allegation A). The officers informed § 87(2)(b) that he had an outstanding warrant and that he was being placed under arrest. Lt. Schmidt then pepper sprayed § 87(2)(b) who was still seated in his vehicle (Allegation B). PO Pilger struck § 87(2)(b) approximately five times on his left elbow and left ankle (Allegation C). A number of officers, including Lt. Schmidt, PO Pilger, PO Carlos Pava, and PO Christopher Derenze, then grabbed onto § 87(2)(b)'s waist and shoulder, tripped him, and brought him to the ground (D, E, F, G, and H). § 87(2)(b) was handcuffed and transported to the 32nd Precinct.

§ 87(2)(g)

This case was originally assigned to Investigator Hena Zaman, but it was reassigned to Investigator Suzanne Donnelly on October 4, 2007. § 87(2)(g)

§ 87(2)(g) PO Pilger was interviewed on March 7, 2008 § 87(2)(g)

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) (Enclosures 7A, 8A-E)

On December 13, 2006, § 87(2)(b) provided a brief telephone statement to the CCRB. § 87(2)(g)

§ 87(2)(b) § 87(2)(b) § 87(2)(b)

§ 87(2)(b) old at the time of his CCRB interview, is a black male who stands at 6'9 and nearly 300lbs. § 87(2)(b) stated that on November 30, 2006, at approximately 12am, he had just left a bar approximately twelve blocks from the incident location with his friend § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b). § 87(2)(b) was also with two females, § 87(2)(b) and § 87(2)(b) who were both seated in the rear of his black Ford Expedition (license plate# § 87(2)(b)). § 87(2)(b) had only consumed one drink and was not intoxicated. § 87(2)(b) did not know how many drinks, if any, § 87(2)(b) had. § 87(2)(b) and § 87(2)(b) each consumed one beer which they brought out of the establishment with them, and they had the beer in the vehicle. § 87(2)(b) explained that his rear windshield and passenger windows are tinted. He could not say specifically how dark the tints were, but he admitted that he has received summonses for § 87(2)(b) in the past. § 87(2)(b) pulled his vehicle over in a legal parking space in front of West 130th Street and 8th Avenue to drop off § 87(2)(b). To his knowledge, he committed no traffic infractions. As § 87(2)(b) exited his vehicle, a marked RMP pulled up behind his vehicle. The lights and sirens on the RMP were not activated.

PO 1, identified through the CCRB investigation as Lt. Christopher Schmidt, addressed § 87(2)(b) by his full name and stated that he had a warrant for his arrest § 87(2)(b). § 87(2)(b) could only describe PO 1 as a white male, approximately 5'6, wearing a uniform. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b). § 87(2)(b) told Lt. Schmidt, who at this point was standing 3-4 feet away from him, that he was § 87(2)(b) but that there could not be a warrant for his arrest. Lt. Schmidt instructed § 87(2)(b) to turn around because he was being placed under arrest. § 87(2)(b) did not comply with Lt. Schmidt's request and said, "Wait a minute Officer, you're making a mistake. Let's try to talk this out. I'm not going anywhere, I'm not gonna run." During this time, § 87(2)(b)'s car was still running and he was standing by the driver's side door, which was ajar. § 87(2)(b) who was still in the front passenger seat, tried to diffuse

the situation, but the officers told him to keep quiet. § 87(2)(b) and § 87(2)(b) were panicky at this time as well. § 87(2)(b) who kept his hands in plain view, attempted to further explain himself to Lt. Schmidt. Lt. Schmidt again instructed § 87(2)(b) to turn around; however, § 87(2)(b) did not comply because he wanted to compromise with the officers. § 87(2)(b) remained calm and did not raise his voice.

At this point, PO 2, identified through the CCRB investigation as PO Erik Pilger, appeared and stood behind § 87(2)(b). § 87(2)(b) stated that PO 2 was also a white male in a uniform, but he could not further describe the officer. § 87(2)(b) did not get a good look at PO Pilger. PO Pilger then called for additional units on his radio but § 87(2)(b) was unable to describe the 5-6 officers who later responded in RMPs. At this point, Lt. Schmidt walked towards the front of § 87(2)(b)'s car, by the driver's side door, which was still open. Lt. Schmidt pulled out his pepper spray and sprayed § 87(2)(b) who became "totally blinded." § 87(2)(b) rubbed his eyes and grabbed onto the steering wheel tightly with both hands. During his telephone statement, § 87(2)(b) asserted that more than one officer struck him with an asp. During his in-person statement, § 87(2)(b) alleged that only one of the officers, possibly Lt. Schmidt, pulled out a baton and struck § 87(2)(b) five times on his left elbow and ankle. § 87(2)(b) explained that even though he is large in stature, he was scared of the officers and that is why he did not let go of the steering wheel. § 87(2)(b) could not recall if the officers were verbally instructing him to release his hands from the wheel. Eventually, § 87(2)(b) released his hands from the steering wheel and the officers grabbed him by his waist and shoulder. They were able to take § 87(2)(b) to the ground by tripping him. Because of the momentum, § 87(2)(b) landed on an officer, facedown. An officer then handcuffed § 87(2)(b) who denied that he physically resisted this process. A crowd of approximately 10-12 people formed at this point and the occupants of the vehicle were screaming. § 87(2)(b) was placed in a marked RMP and after approximately 15 minutes, unknown officers transported § 87(2)(b) to the 32nd Precinct.

At the stationhouse, § 87(2)(b) saw § 87(2)(b) in a neighboring cell. § 87(2)(b) did not see § 87(2)(b) being placed under arrest at the incident location. § 87(2)(b) told § 87(2)(b) that the officers arrested him for § 87(2)(a) 160.50. § 87(2)(b) did not observe § 87(2)(b) intervene in the situation except when he was inquiring about what was going on. Lt. Schmidt told § 87(2)(b) that one of the officers got injured as a result of the incident and asked § 87(2)(b) if he was hurt. § 87(2)(b) said that he was not injured even though he had a swollen elbow and a knot on his ankle. Lt. Schmidt also said that to avoid further problems with the arrest, § 87(2)(b) should sign a paper stating that § 87(2)(b) refused medical attention. § 87(2)(b) signed the paper even though he wanted further medical attention; however, he was informed that someone would respond to the stationhouse to treat his eyes. After approximately an hour, § 87(2)(b) began to see clearly again. At that time, EMS responded and rinsed out § 87(2)(b)'s eyes. One of the officers told § 87(2)(b) to drive § 87(2)(b)'s car home. § 87(2)(b) later found out that the officers suspected § 87(2)(b) of having illegally tinted windows and that was the reason they had stopped him. § 87(2)(b) went to the DMV subsequent to the incident and learned that he had received a summons § 87(2)(a) 160.50 on the date of the incident. § 87(2)(b) stated that he was unaware that the summons was issued to him until that point.

§ 87(2)(b) was incarcerated § 87(2)(b) and did not seek medical attention subsequent to his release because his injuries subsided fairly quickly. § 87(2)(b) was remanded as a result of this incident and is currently incarcerated in a facility upstate. Neither § 87(2)(b) nor § 87(2)(b) received summonses even though the officers knew they had been in the vehicle.

Results of Investigation

Attempts to Contact Additional Victims/Witnesses (Enclosures 31A-U, 32A-J)

On December 11, 2006, § 87(2)(b) was contacted by phone. At this time, she expressed that she did not have the time to pursue the complaint and she choose to withdraw it. She stated that she did not know the victim. A withdrawal letter was mailed to her on the same day, but § 87(2)(b) failed to sign and return the letter to the CCRB.

On March 1, 2007, an attempt was made at contacting § 87(2)(b) at the telephone number listed on his arrest report. However, the telephone number was inaccurate. On the same date, a search was conducted on MetroSearch for § 87(2)(b) and the search yielded one potential result. A call was made to that telephone number later on March 1, 2007. A female answered the phone, stated that § 87(2)(b) was not

home, and disengaged the call. A call to the Department of Corrections inmate locator line indicated that § 87(2)(b) was not currently incarcerated in New York City. Also on that date, a please call letter was mailed to § 87(2)(b)'s home address, and the letter was not returned to the CCRB. Also on March 1, the investigator contacted § 87(2)(b) who provided two telephone numbers for § 87(2)(b) and expressed that she would like to provide a statement. § 87(2)(b) scheduled an appointment at the CCRB for March 9, 2007. Attempts were made at reaching § 87(2)(b) on March 1; one of the numbers provided by § 87(2)(b) was disconnected. The investigator left § 87(2)(b) a voicemail at the other number. On March 2, 2007, the investigator attempted to reach § 87(2)(b) again. § 87(2)(b)'s aunt, § 87(2)(b) informed the investigator that she has not seen § 87(2)(b) in three months and she did not know where he was or whether he was incarcerated.

On March 9, 2007, § 87(2)(b) failed to appear at the CCRB without calling the CCRB to cancel or reschedule the appointment. § 87(2)(b) was contacted on March 12, 2007, at which time she scheduled a second appointment for March 16, 2007. Also on March 12, 2007, the investigator made attempts to contact § 87(2)(b) at both telephone numbers § 87(2)(b) previously provided. However, both numbers were disconnected. On the same date, a final please call letter was mailed to § 87(2)(b) and the letter was not returned to the CCRB. On March 16, 2007, § 87(2)(b) failed to appear at the CCRB for her second scheduled appointment, and she did not call to cancel or reschedule the appointment. On March 20, 2007, additional attempts were made at contacting § 87(2)(b) at both of her telephone numbers, but the numbers were still not in service.

Officer Interviews

Lieutenant Christopher Schmidt (Enclosures 13A, 14A-C)

Lieutenant Christopher Schmidt was interviewed at the CCRB on December 26, 2007. On November 29, 2006, Lt. Schmidt worked a tour of 1730 hours by 0200. He was assigned as the platoon commander for the tour and was working with PO Erik Pilger. Lt. Schmidt was assigned to a marked police car but he could not recall the vehicle number. Lt. Schmidt had entries in his memo book regarding the incident, which he read verbatim for the record as: "2351, 130 & 8th Avenue 1 Under § 87(2)(b) warrant from Bronx § 87(2)(a) 160.50, perp. § 87(2)(b) § 87(2)(b) @ 32 PCT processing arrest w/PO Pilger, EMS responded to 32 PCT to check out my knees/legs."

Lt. Schmidt stated that on November 29, 2006 at approximately 11:50pm, he was patrolling with PO Pilger and driving northbound on 8th Avenue. Lt. Schmidt described 8th Avenue as a 2-way street with streetlights above. It is not a very busy commercial corner. The officers were "randomly running license plates" as part of their duties and ran the license plate of the vehicle that § 87(2)(b) owned and was driving, which was an SUV. There was nothing that drew Lt. Schmidt's attention to § 87(2)(b)'s vehicle (no traffic infractions); he chose to run the plate at random. Lt. Schmidt explained that when officers run a license plate, they learn of the registered owner's name and whether or not the vehicle is stolen. Additionally, the computer checks for warrants, parole, and things of that nature. The response the officers got was that § 87(2)(b) was wanted for § 87(2)(b) warrant from the Bronx. Lt. Schmidt was provided with § 87(2)(b)'s physical description (height, weight, race) and his date of birth. Lt. Schmidt recalled speaking to PO Pilger about § 87(2)(b)'s size. A few seconds after getting that response in the computer, Lt. Schmidt and PO Pilger decided to pull § 87(2)(b)'s vehicle over with the intent of arresting him for the outstanding warrant. The officers activated their lights and sirens, and § 87(2)(b) pulled his vehicle over shortly thereafter.

Lt. Schmidt approached the driver's side of § 87(2)(b)'s vehicle, and PO Pilger approached the passenger side. Lt. Schmidt asked the driver for identification, which he produced and which revealed the name § 87(2)(b). There was another male sitting in the passenger seat and two females seated in the back of the vehicle. PO Pilger may have been speaking to the vehicle's passengers, but Lt. Schmidt was not sure of this. The date of birth also matched that which Lt. Schmidt had received during the warrant check and § 87(2)(b)'s stature matched the description on the warrant check. Lt. Schmidt explained that § 87(2)(b) had a warrant from the Bronx and the officers would have to take him in. § 87(2)(b) stated, "Fuck that, I'm not going anywhere." Lt. Schmidt repeated that § 87(2)(b) had an outstanding warrant and they could discuss it back at the stationhouse. § 87(2)(b) again stated, "Fuck that, I'm not going anywhere, you do what you have to do." Lt. Schmidt stated that § 87(2)(b) was a "big guy," about 6'4 and 300lbs. Because of § 87(2)(b)

§ 87(2) s size, Lt. Schmidt did not want to get into a physical altercation with him. Lt. Schmidt stated, “Let’s handle this like gentlemen,” and suggested that § 87(2)(b) go to the stationhouse to straighten everything out. § 87(2)(b) again refused to comply, stating, “Fuck this, fuck you.” Lt. Schmidt stated that he requested § 87(2)(b) to step out of the vehicle 3-4 times. The passengers in the vehicle did not get involved with the officers physically, but they were stating things like, “What for? What’s this about?” Lt. Schmidt believed the male passenger may have been drinking, but the two females did not appear to be intoxicated. Lt. Schmidt believed the male passenger was intoxicated because when he was releasing the vehicle to them later, his speech and the conversation led Lt. Schmidt to believe he had been drinking.

At this point, Lt. Schmidt opened the car door. Lt. Schmidt pulled out his mace and maced § 87(2)(b) with “two decent bursts” in his face while § 87(2)(b) was still seated in the vehicle. Lt. Schmidt believed that macing § 87(2)(b) was “the best alternative” for getting § 87(2)(b) in custody because he would not comply with officers’ orders and would not exit the car voluntarily. § 87(2)(b) was affected by the mace, particularly in his eyes. Lt. Schmidt stated that the passengers in the vehicle could have been affected by the mace but he did not believe they were. § 87(2)(b) grabbed the steering wheel and Lt. Schmidt attempted to pull § 87(2)(b) out of his vehicle. PO Pilger came around to the driver’s side of the vehicle. Lt. Schmidt got on his radio and asked for another unit to respond to the scene (though he later stated it was right before or right after he maced § 87(2)(b). After a few seconds, Lt. Schmidt and PO Pilger were able to pull § 87(2)(b) from his vehicle because § 87(2)(b) eventually let go of the steering wheel. Lt. Schmidt had § 87(2)(b) in a “bear hug” and had his arms wrapped around his torso. § 87(2)(b) was still standing at this point and would not go down to the ground. He was not fighting or attempting to strike Lt. Schmidt, but he was trying to get Lt. Schmidt off of him. PO Pilger took his nightstick out and hit § 87(2)(b) a few times in his leg or legs (Lt. Schmidt was not sure one or both), trying to get him to go to the ground.

Another unit responded soon thereafter; Lt. Schmidt was not sure who these officers were but they were from the 32nd Precinct. When provided with the names Derenze and Pava, he confirmed it was them and added that these officers were on a prisoner transport before they responded. Lt. Schmidt did not know if the officers heard the call for assistance or were passing by. Lt. Schmidt, PO Pilger, PO Derenze and PO Pava were wrestling around and after several seconds got § 87(2)(b) down to the ground. Lt. Schmidt could not say where the other officers were or where they had contact with § 87(2)(b). He did not know if PO Derenze or PO Pava had to utilize their nightsticks against § 87(2)(b). Lt. Schmidt recalled that § 87(2)(b) had still been standing because at one point, he thought the officers and § 87(2)(b) were going to fall to the ground on top of him. The group § 87(2)(b) and the officers) fell forward and landed on the ground. § 87(2)(b) landed on his back and continued to move his arms to avoid being handcuffed. The officers had to turn § 87(2)(b) over in order to get his hands behind his back. Additional units (both from the 32nd Precinct and the 28th Precinct, as the incident was on the border of both commands) responded in less than a minute and the officers were able to get § 87(2)(b) in handcuffs. Lt. Schmidt did not know any of the officers’ names. Lt. Schmidt stated that possibly 2-3 other officers got involved in attempting to get § 87(2)(b) in handcuffs; he estimated about 6 officers struggling with § 87(2)(b). Lt. Schmidt estimated that § 87(2)(b) was handcuffed after about a minute. He was not sure which officer handcuffed § 87(2)(b). Lt. Schmidt could not recall if the passengers remained in the vehicle during this time or exited, but they never got physically involved with the officers. § 87(2)(b) s vehicle was searched on the scene incident to his arrest (inventory search) by Lt. Schmidt and possibly another officer on the scene, because it is procedure, for both contraband as well as other items like money and possessions. No contraband was recovered during the search. § 87(2)(b) was also searched on the scene by either Lt. Schmidt or PO Pilger after he was handcuffed. Lt. Schmidt stated that there were some vehicles stopped and there may have been a few people on the sidewalk watching the incident, because the incident happened in the middle of the street and cars were forced to stop. Lt. Schmidt estimated that there were less than 10 people who may have gathered.

After the struggle, Lt. Schmidt did not observe any visible injuries on § 87(2)(b). The only injury § 87(2)(b) complained of was the mace in his eyes (later at the precinct). He did not request an ambulance or medical attention other than water to irrigate his eyes. He did not have any injuries on his face, and Lt. Schmidt had no knowledge of § 87(2)(b) being struck in the face with a nightstick. Lt. Schmidt remained at the scene for “a few minutes” before traveling to the 32nd Precinct. § 87(2)(b) was then transported to the 32nd Precinct (Lt. Schmidt could not recall by whom) and charged § 87(2)(a) 160.50

as having the warrant from the Bronx. § 87(2)(b) believed that PO Pilger maced him and initially gave PO Pilger “a hard time” at the stationhouse and was making remarks to PO Pilger. § 87(2)(b) eventually calmed down after speaking to Lt. Schmidt and another officer came to fingerprint § 87(2)(b). Lt. Schmidt released § 87(2)(b)’s vehicle to one of the female passengers of the vehicle at some point (with § 87(2)(b)’s consent) – Lt. Schmidt could not recall whether the vehicle was released to them on the scene or from the stationhouse. The females in the vehicle were not charged with anything, and the male passenger may have been issued a summons by PO Pilger, but Lt. Schmidt was not sure about this or why one would have been issued. Lt. Schmidt did not believe any vehicular summonses were issued. Lt. Schmidt believed that the passengers arrived at the 32nd Precinct at some point, but he was not sure when. EMS responded to the 32nd Precinct for Lt. Schmidt, who sustained some bruises and cuts to his legs during the scuffle. Lt. Schmidt sustained these injuries because his knees and legs hit the concrete when the group went to the ground. LOD paperwork was filled out, but Lt. Schmidt did not go sick. Lt. Schmidt was not aware of any other officers sustaining any injuries as a result of the incident. Lt. Schmidt did not believe EMS treated § 87(2)(b) at all.

Police Officer Erik Pilger (Enclosures 15A-C, 16A-C)

Police Officer Erik Pilger was interviewed at the CCRB on March 7, 2008. On November 29, 2006, PO Pilger worked a tour of 1730 by 0205 hours and was assigned to patrol. He was working with Lt. Christopher Schmidt and the two were in a marked patrol car, # 1292, in which Lt. Schmidt was the operator and PO Pilger was the recorder. PO Pilger was dressed in uniform. PO Pilger had entries in his memo book pertaining to this incident, which he read verbatim for the record as follows: “2351, car stop 8 Ave, W. 130 Street, 1 under, § 87(2)(b) arrest # § 87(2)(b) 96x5, § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), 96x1 “C,” § 87(2)(b), § 87(2)(b) 2359, 84 32 PCT; at 0101 hours, § 87(2)(b) 1 vehicle, \$101.82 (signature), § 87(2)(b) 1 vehicle (signature), § 87(2)(b)

PO Pilger stated that at approximately 11:51pm, he was patrolling the 28-32 Precinct. He and Lt. Schmidt noticed a vehicle, a Ford Expedition, with tinted windows. PO Pilger explained that there are two ways to gauge whether or not a vehicle has illegally tinted windows: one is with the use of a “tint-meter” and the other is to place the defendant’s driver’s license under the windshield and determine whether or not it is visible through the windshield. As a result, PO Pilger and Lt. Schmidt decided to pull the vehicle over in front of West 130th Street and Frederick Douglass Boulevard (8th Avenue). The officers used their lights and sirens to indicate that the vehicle had to pull over, and the vehicle pulled over approximately 3 blocks later. As they pulled the vehicle over, they ran the vehicle’s license plate number, as they always do, in the computer inside their patrol car. Upon entering the license plate number, a warrant popped up in the computer which stated that § 87(2)(b) was wanted § 87(2)(b). Additionally, a description of the defendant was provided, and PO Pilger recalled that he was very large in stature, “6’9 and 290lbs.” PO Pilger stated that when someone has an outstanding warrant, the officers approach the individual and confirm their identity. Once the individual’s identity is confirmed, the individual is immediately subject to arrest.

Lt. Schmidt approached the driver’s side of the vehicle and PO Pilger approached the passenger side. As the officers exited their patrol car, the front passenger in the vehicle, whom PO Pilger later identified as § 87(2)(b) exited the vehicle and began walking away. PO Pilger noticed that there were a total of four occupants in the SUV. § 87(2)(b) was operating the vehicle, § 87(2)(b) was in the front passenger seat, and two females, one being § 87(2)(b) and the other whose name PO Pilger did not obtain, were seated in the back of the vehicle. PO Pilger instructed § 87(2)(b) to get back into the vehicle, and § 87(2)(b) responded, “Why?” PO Pilger directed § 87(2)(b) to get back into the vehicle and he would then tell him why. § 87(2)(b) got back into the vehicle. PO Pilger stated that § 87(2)(b) was “not compliant at all” and gave him difficulty because he kept arguing with PO Pilger. Lt. Schmidt was having a discussion with § 87(2)(b) on the opposite side of the vehicle. Lt. Schmidt asked § 87(2)(b) to get out of the vehicle so he could speak with him. § 87(2)(b) exited the vehicle and Lt. Schmidt and PO Pilger knew “this has got to be the guy” based on his stature, which matched that which was on the warrant. PO Pilger looked up at § 87(2)(b) because of his size and § 87(2)(b) laughed at PO Pilger’s reaction to § 87(2)(b)’s size. PO Pilger stated that § 87(2)(b), § 87(2)(b), and the other female smelled of alcohol, but they were not drunk.

Lt. Schmidt explained to § 87(2)(b) that the officers stopped § 87(2)(b) for tinted windows and upon further investigation they learned that § 87(2)(b) had an outstanding warrant. PO Pilger heard from the other side of the vehicle that § 87(2)(b)'s tone became "very hostile" and his demeanor became "violent." PO Pilger stated that Lt. Schmidt was speaking with § 87(2)(b) very calmly. Lt. Schmidt told § 87(2)(b) that he had to come with the officers and § 87(2)(b) did exit the vehicle, but PO Pilger believed that § 87(2)(b) gave Lt. Schmidt "a hard time" initially. However, § 87(2)(b) stated that he was not going with the officers and stated, "Do what you gotta do." § 87(2)(b) then got into a "fighting stance position" and was standing in between the vehicle's front and back doors. Lt. Schmidt then called to PO Pilger and stated that he needed his assistance. For safety reasons, PO Pilger asked § 87(2)(b) to give him the keys to the vehicle. PO Pilger explained that he did not want § 87(2)(b) to have the keys because he did not want him to put the car in gear and attempt to drive away, because the officers and § 87(2)(b) were outside of the car and could get hit. § 87(2)(b) asked why, and PO Pilger repeated his request. § 87(2)(b) refused to give PO Pilger the keys, and PO Pilger opened § 87(2)(b)'s door, reaching inside the passenger side of the vehicle to obtain the keys. § 87(2)(b) then took the keys to the vehicle and PO Pilger told him to give him the keys. § 87(2)(b) then pushed PO Pilger and PO Pilger stumbled. § 87(2)(b) seated in the backseat with the other female, was telling § 87(2)(b) to give PO Pilger the keys to the vehicle. § 87(2)(b) then took the keys from § 87(2)(b) to give them to PO Pilger. PO Pilger took the keys from § 87(2)(b) and walked around to the driver's side of the vehicle. PO Pilger stated that a crowd began to form, as the incident took place right outside a housing project. No one from the crowd attempted to intervene.

PO Pilger noticed that § 87(2)(b) was still in a "fighting stance position." PO Pilger then saw another RMP driving southbound on 8th Avenue and waved them down. PO Pilger recalled that PO Derenze and possibly PO Pava were in that RMP. PO Pilger recalled that at some point § 87(2)(b) tried to get back into the vehicle and held onto the steering wheel, but he could not recall exactly at what point in the incident that was. § 87(2)(b) then came toward Lt. Schmidt, and Lt. Schmidt maced § 87(2)(b). PO Pilger believed that Lt. Schmidt utilized his mace before PO Pilger got to the driver's side of the vehicle because he did not really see it. He knew that § 87(2)(b) was sprayed in his face, but he did not know how many bursts Lt. Schmidt may have used. However, PO Pilger knew Lt. Schmidt used his mace because he tasted it in his mouth. PO Pilger's vision also became somewhat impaired because he got mace in his eyes as well. § 87(2)(b), whose vision was impaired due to the mace, started swinging his arms left and right toward the officers, and PO Pilger then pulled out his asp. PO Pilger "didn't want to get hit," by § 87(2)(b) because "one shot from him, I didn't want to get knocked out." Lt. Schmidt grabbed onto § 87(2)(b) to try to control him, but § 87(2)(b) "picked up" Lt. Schmidt and threw him to the ground. Lt. Schmidt got right back up. PO Pilger hit § 87(2)(b) six to ten times with his asp in the arm and thigh and lower on his leg, as he was taught in the Police Academy, to get § 87(2)(b) under control. § 87(2)(b) did not seem to be affected by the asp. He continued swinging at the officers. § 87(2)(b) then attempted to get back into the vehicle and was trying to put the car in drive. Lt. Schmidt, PO Pilger, PO Pava, and PO Derenze all had to grab § 87(2)(b) to keep him from getting back into the vehicle.

The officers were eventually able to get § 87(2)(b) to the ground. PO Pilger handcuffed one of § 87(2)(b)'s wrists, but PO Pilger had to reach for his second pair of handcuffs because § 87(2)(b) was "extremely huge." § 87(2)(b) continued struggling; he refused to give his arms and began kicking at the officers. During this time, Lt. Schmidt called for an '85' over his radio and additional officers, PO Pilger estimated about twenty, responded to the scene shortly thereafter. PO Pilger was able to get out his second pair of handcuffs and double-cuffed § 87(2)(b). PO Pilger believed that one other officer, assisted physically in subduing § 87(2)(b) by grabbing his feet and helping the officers get § 87(2)(b) to the ground. PO Pilger recalled that § 87(2)(b) landed on his side. He was kicking and "growling" at the officers. PO Pilger did not recall whether § 87(2)(b) actually kicked or punched any of the officers. He was not sure which officers responded because they were both from the 32nd and 28th Precincts. PO Pilger and Lt. Schmidt searched § 87(2)(b) on the scene, but no contraband was recovered.

According to PO Pilger's memo book, eight minutes lapsed between when § 87(2)(b)'s vehicle was stopped and when he was transported. PO Pilger and Lt. Schmidt transported § 87(2)(b) to the 32nd Precinct. § 87(2)(b) was also arrested and was later released with a § 87(2)(a) 160.50 summons for pushing PO Pilger, but he was transported separately (PO Pilger did not know by which officers) to the 32nd Precinct. § 87(2)(b) never calmed down; he was "out of control" and continued "growling" at PO Pilger. PO Pilger did

not look at § 87(2)(b) because he did not want to provoke him. The officers did not remove § 87(2)(b)'s handcuffs until he calmed down some time later, and they placed him in a holding cell. § 87(2)(b) refused to be fingerprinted initially. PO Pilger called EMS to the stationhouse to treat § 87(2)(b)'s eyes. The females were not arrested or issued any summonses; the vehicle and § 87(2)(b)'s funds were released to them at the precinct. PO Pilger believed that PO Vilorio of Manhattan North Task Force had transported § 87(2)(b)'s vehicle to the 32nd Precinct. PO Pilger believed that § 87(2)(b)'s vehicle was searched either on the scene or at the stationhouse, possibly by PO Vilorio. Lt. Schmidt was also treated by EMS at the stationhouse because he injured his knee when § 87(2)(b) threw him to the ground. § 87(2)(b) did not complain to PO Pilger of any injuries (other than the mace to his eyes), and he did not have any visible injuries. No officer ever struck § 87(2)(b) in the face with an asp. PO Pilger did not see any other officers utilize asps or mace.

§ 87(2)(b) was also removed to the precinct, where he was issued a § 87(2)(a) 160.50 summons for pushing PO Pilger. PO Pilger also discovered later that § 87(2)(b) was on parole. § 87(2)(b)'s vehicle was released to § 87(2)(b) at the stationhouse. PO Pilger viewed the summonses he issued to § 87(2)(b) and to § 87(2)(b) § 87(2)(a) 160.50 and verified that he issued them and that he did use the "tint-meter" because he indicated a percentage on the summonses. PO Pilger did not recognize § 87(2)(b) from any other interaction. PO Pilger then viewed the AIDED report and the LOD paperwork and witness statement that he filled out; he recalled the information on the documents was accurate.

Police Officer Carlos Pava (Enclosures 9A-B, 10A-C)

Police Officer Carlos Pava, a § 87(2)(b)-old Hispanic male, was interviewed at the CCRB on November 8, 2007. On November 29, 2006, PO Pava worked a tour of 2315 by 0750 hours and was assigned as Sector DEF for the 32nd PCT. PO Pava was partnered with PO Derenze and the two were in uniform. They were assigned to a marked motor vehicle, #1352. PO Pava believed that he was the operator of the vehicle. PO Pava had entries in his memo book regarding the incident, which he read verbatim into the record as: "0015, 1085, W. 130 & 8th, § 87(2)(b)"

PO Pava stated that on November 29, 2006 at approximately 12:15am, he and PO Derenze were on their way to the 28th Precinct with a prisoner in the backseat, driving southbound on St. Nicholas. He described the area as having light traffic at this time, and it was fairly well-lit. They observed that on the northbound lane, there was a marked police vehicle parked there who had pulled over a vehicle and were conducting a car stop. PO Pava and his partner just happened to be passing by the location; they did not receive a call for the location. PO Pava saw that two officers, a Lieutenant and a Police Officer whose names he did not know, were standing on the driver's side of the vehicle. When provided with the names Lt. Schmidt and PO Pilger, PO Pava reiterated that he was not sure of the officers' names. The driver's side door was open. Lt. Schmidt and PO Pilger waved PO Pava and his partner down as they were driving southbound. PO Pava pulled the officers' patrol car up in front of the car that was stopped. He described the car as a large SUV. Lt. Schmidt and PO Pilger were standing on the driver's side of the vehicle. PO Pava walked to the passenger side of the vehicle because he noticed that there were three other occupants in the vehicle – one was seated in the front passenger seat and two were in the backseat. PO Derenze walked to the driver's side and joined the two officers who were already there. PO Pava focused his attention on the three occupants of the car and his attention was not on the driver and the other officers initially. He also explained that because of the size of the SUV truck, it was difficult for him to see what was transpiring on the driver's side of the vehicle. PO Pava did not initially realize that his partner and the Lt. Schmidt and PO Pilger were attempting to place the driver, § 87(2)(b) under arrest. PO Pava did not recognize § 87(2)(b) from any previous interaction. PO Pava remained on the passenger side of the vehicle until he felt something on his head and looked up. At that point, he realized that an officer on the other side of the vehicle had utilized his mace, and as a result, PO Pava got mace in his mouth and on his face. When asked to describe § 87(2)(b)'s actions prior to the officers' use of mace, PO Pava could only say that he knew the officers were instructing § 87(2)(b) to exit his car and he was refusing; he did not know what else was going on. PO Pava did not know which officer used his mace. PO Pava walked around to the driver's side of the vehicle, still affected by the mace. From what he could see, Lt. Schmidt, PO Pilger, and possibly PO Derenze were trying to pull § 87(2)(b) out of his vehicle. They were also instructing § 87(2)(b) to "Get down on the floor," but § 87(2)(b) refused to exit his vehicle. PO Pava also recalled that at one point, the passenger in the vehicle was trying to hold § 87(2)(b) and pull him back into the vehicle as the officers

attempted to pull him out. PO Pava believed that individual was a female, but he was not sure because he still had mace in his face and was affected by it. PO Pava believed that after some resisting, the officers were able to pull § 87(2)(b) out of the vehicle. However, for some time, the officers were unable to handcuff § 87(2)(b). PO Pava explained that § 87(2)(b) was struggling with them, holding onto the car and kicking at the officers. PO Pava could not say what the other occupants of the vehicle were doing at this time, but he recalled that they were screaming and yelling. PO Pava could not tell if any of the vehicle's occupants seemed intoxicated. He also could not recall if any of them exited the vehicle and attempted to intervene in what was going on.

PO Pava was not sure if § 87(2)(b) actually struck any of the officers. He stated that § 87(2)(b) took a swing at him and almost hit him. PO Pava stated that § 87(2)(b) was a "huge" guy, nearly 6'7 and 300lbs. He added that § 87(2)(b)'s large stature was why all four officers had trouble getting him down onto the ground. PO Pava stated that § 87(2)(b) did not seem to be affected by the mace. PO Pava believed that an officer may have used an asp or nightstick against § 87(2)(b) but it was difficult for him to see what was going on because his eyes were irritated from the mace. He stated that he never used his asp or nightstick against § 87(2)(b). He never saw any officer strike § 87(2)(b) in the face with his asp or nightstick. PO Pava called an '85' and requested that additional units come to the scene, additional units did respond within a minute. It was only then with the assistance of other officers that § 87(2)(b) could finally be handcuffed. PO Pava believed that officers from both his and Lt. Schmidt's and PO Pilger's command arrived on scene, but he believed more officers from his command responded. He could not recall specifically who may have arrived; when prompted, he stated that he could not recall if Lt. McCormick, Sgt. Gomez or Sgt. Woods was on scene, but he stated that Sgt. Miller may have responded to the scene because he showed up to the hospital when PO Pava was treated there. When the officers arrived, § 87(2)(b) was not yet handcuffed and there was a struggle occurring. PO Pava did not know which officer was actually able to handcuff § 87(2)(b), and it took a number of officers, "at least four more," to restrain and finally get § 87(2)(b)'s hands together.

During this time, PO Pava did not recall seeing any of the other occupants out of the car. PO Pava did not remain on scene long because he was irritated by the mace and wanted to irrigate his eyes and mouth. PO Pava stated that § 87(2)(b) seemed to be "high" to him; when asked why, PO Pava explained that § 87(2)(b) was very combative and defensive. It seemed to PO Pava that § 87(2)(b) did not want to exit his car because he was under the influence of something and he did not want "to get in trouble" for driving under the influence. While PO Pava was on scene, § 87(2)(b) never calmed down.

PO Pava did not know which officers may have transported § 87(2)(b) away from the scene. Additionally, he did not know what happened with § 87(2)(b)'s vehicle and he did not witness any search of § 87(2)(b)'s vehicle. PO Pava did not know if EMS ever responded to the scene. He and his partner left the scene, went to the precinct, washed up, and then left for § 87(2)(b) for further treatment for the mace. PO Pava did not know if any other officers were injured as a result of the incident. He believed that his partner was bleeding, but he could not elaborate on the injury because he could not remember. PO Pava did not know if PO Derenze received any medical treatment.

PO Pava did not recall seeing any visible injuries on § 87(2)(b) and he did not hear § 87(2)(b) complaining of any injuries. PO Pava did not see any crowd gather at the scene. PO Pava did not know if any other arrests were made at the scene.

Police Officer Christopher Derenze (Enclosures 11A-B, 12A-C)

Police Officer Christopher Derenze, a § 87(2)(b) old white male, was interviewed at the CCRB on November 8, 2007. On November 29, 2006, PO Derenze worked a tour of 2315 by 0750 hours and was assigned to the 32nd Precinct. He could not recall and did not have documented his specific duties on that day. His partner was PO Carlos Pava, and the two were dressed in uniform. PO Derenze and PO Pava were assigned to a marked RMP. PO Pava had entries in his memo book pertaining to the incident, which he read verbatim for the record as: "2345, transport 1 male to 28; 2350, backed task force unit; 0000, 84 SH in regards; § 87(2)(b) § 87(2)(b)

PO Derenze stated that on November 29, 2006 at approximately 11:45pm near West 130th Street and Frederick Douglass Blvd., he and his partner were driving in their vehicle when they were flagged down by a task force unit consisting of Lt. Schmidt and PO Pilger who needed assistance. PO Derenze did not believe there was a radio call for that location, and he stated that he and his partner just happened to be driving past the scene when they were flagged down. Upon being flagged down by the officers, PO Derenze observed that Lt. Schmidt and PO Pilger had a vehicle stopped and the driver's door was open. The officers seemed to be speaking with the defendant, § 87(2)(b) when they flagged the officers down. PO Derenze and PO Pava pulled over and exited their vehicle. PO Derenze did not recognize § 87(2)(b) from any previous interaction. PO Derenze approached the driver's side of the vehicle while PO Pava approached the passenger side. Lt. Schmidt and PO Pilger were standing near the driver's open door, which was ajar. Upon his approach, PO Derenze heard Lt. Schmidt and PO Pilger instructing § 87(2)(b) to exit his vehicle, but he refused to do so. § 87(2)(b) was not physically under arrest at this point, but it appeared to PO Derenze that the officers' intent was to arrest § 87(2)(b). PO Derenze could not recall how § 87(2)(b) was responding to the officers' instructions, but he was holding onto the steering wheel and to the back of his seat and would not exit his vehicle. He was also kicking his legs at the officers. After instructing § 87(2)(b) numerous times to exit his vehicle and after an estimated few minutes, Lt. Schmidt and PO Pilger attempted to physically remove him from the driver's seat. The officers began grabbing at § 87(2)(b)'s arms and pulled him. § 87(2)(b) clung to the steering wheel and to his seat and refused to budge. The individual in the front passenger seat was also holding onto him to prevent the officers from physically removing him. PO Derenze began assisting Lt. Schmidt and PO Pava, grabbing onto § 87(2)(b) and trying to pull him from the vehicle. The three officers were unable to physically remove § 87(2)(b). PO Derenze explained that § 87(2)(b) was "extremely big" in stature. He believed that during this time, PO Pava was standing on the other side of the vehicle watching the passengers, who were still in the vehicle. PO Derenze stated that the vehicle's occupants were yelling, but he could not recall what specifically they were saying. PO Derenze could not tell whether or not any of the individuals seemed to be intoxicated.

After a brief period of physically trying to remove § 87(2)(b) from his vehicle, one of the officers utilized his OC spray on § 87(2)(b). PO Derenze could not tell which officer used the mace and stated that he did not use it. He believed the reason for its use was because § 87(2)(b) refused to exit his vehicle. The OC spray did not seem to have any effect on § 87(2)(b). PO Derenze could not tell how many times officers attempted to spray § 87(2)(b) with the OC spray, but he believed the spray hit § 87(2)(b)'s face. At this point, PO Pava came around to the driver's side of the vehicle and assisted the officers in trying to pull § 87(2)(b) out of his vehicle. PO Pava called for additional units and the officers continued pulling at § 87(2)(b). Finally, § 87(2)(b) was forcibly removed from his vehicle. He did not voluntarily exit. Lt. Schmidt, PO Pilger, PO Derenze, and PO Pava as well as additional responding units who had just arrived successfully took § 87(2)(b) to the ground. On the ground, § 87(2)(b) continued resisting by kicking at all of the officers and therefore the officers had difficulty placing him into the handcuffs. He was also lying on his arms to prevent them from being handcuffed. PO Derenze could not estimate how many officers assisted in restraining and handcuffing § 87(2)(b). He stated that he was on the ground at that point. To the best of PO Derenze's recollection, no officer used a nightstick or asp against § 87(2)(b) and he did not use either of these against § 87(2)(b). He never saw any officer use an asp or nightstick on § 87(2)(b)'s face. PO Derenze could not estimate how long § 87(2)(b) struggled with officers before he was able to be handcuffed. PO Derenze could not recall which additional units may have responded to the scene, given that there were several and the incident was nearly a year ago. PO Derenze did not sustain any injuries as a result of the incident. PO Pava had to go to the hospital because he got mace in his face, but PO Derenze was not aware of additional officers being injured as a result of the incident. As soon as § 87(2)(b) was physically under arrest, PO Derenze and PO Pava returned to their patrol car and went to the 32nd Precinct. Then, PO Derenze took PO Pava to § 87(2)(b) to be treated for the pepper spray. PO Derenze did not know which officers transported § 87(2)(b). To his knowledge, none of the other occupants of the vehicle were arrested.

PO Derenze did not know if § 87(2)(b) sustained any injuries as a result of the incident. He did not hear § 87(2)(b) complain of any injury. § 87(2)(b)'s demeanor did not seem to change while PO Derenze was present; he never calmed down at any point. He did not have any subsequent interaction with § 87(2)(b). PO Derenze could not recall if any crowd gathered at the scene, because his focus was on what was taking place with § 87(2)(b) and then getting PO Pava to the hospital. PO Derenze did not recall why § 87(2)(b)

was originally stopped by Lt. Schmidt or PO Pilger. EMS did not respond to the scene while PO Derenze was there. PO Derenze did not know if § 87(2)(b)'s car was searched, and he did not witness a search if it did occur.

Police Documents

Communication Records (Enclosures 18A-E)

Sprint job # § 87(2)(b) and its corresponding 911 CD documents radio transmissions beginning at 2351 on November 29, 2006 hours from West 130th Street and 8th Avenue in Manhattan. The recording begins with the Task Force Lieutenant, Lt. Schmidt, requesting a Citywide warrant check for an individual involved in a car stop that he has just conducted. Seconds later, Lt. Schmidt requests another unit at West 130th Street and 8th Avenue. His demeanor is calm. After another 35-40 seconds, Lt. Schmidt radios again. Noise and commotion is audible in the background and Lt. Schmidt's tone is alarmed. He hurriedly calls for an '85,' A few seconds later a Sergeant radios an '84,' indicating that additional units have responded. Approximately a minute later, at 2352 hours, Lt. Schmidt relays to "slow it down," as there is a perpetrator in custody and the situation is seemingly under control. At 2359 hours, one male is being transported back to the 32nd Precinct stationhouse.

An additional job, # § 87(2)(b) documents that at 0149 hours, a call was made from the 32nd Precinct indicating that the Task Force Lieutenant, Lt. Schmidt, has knee and elbow injuries. EMS is on scene at the stationhouse at § 87(2)(b) hours.

Manhattan North Task Force & 32nd Precinct's Roll Calls (Enclosures 19A-H, 20A-Q)

The tour 3 Manhattan North Task Force roll call for November 29, 2006 shows that Lt. Schmidt was assigned as the platoon commander in RMP #2613. PO Pilger was assigned as Lt. Schmidt's operator in the same vehicle. The 32nd Precinct's tour 1 roll call for November 30, 2006 indicates that PO Derenze and PO Pava were assigned to sectors CDEF and were using vehicle # 1352.

MISD/DMV Printouts (Enclosures 28A-I)

MISD and DMV printouts show that PO Pilger ran a license plate check for the vehicle belonging to § 87(2)(b) on November 29, 2006 at 11:48pm.

OLBS, Command Log, and Prisoner Holding Pen Roster (Enclosures 21A-B, 22A, 23A)

The OLBS pertaining to § 87(2)(b)'s arrest (#§ 87(2)(b)) indicates that the incident occurred on November 29, 2006 at 11:55pm at the southeast corner of Frederick Douglass Boulevard (8th Avenue) and West 130th Street in Manhattan. § 87(2)(b) was charged § 87(2)(a) 160.50 and having an outstanding warrant. The narrative states that § 87(2)(b) had an active § 87(2)(b) warrant from the Bronx and was told numerous times that he was under arrest. § 87(2)(b) repeatedly told the officers, "I ain't going, do what you have to do." Several officers had to physically tackle and mace § 87(2)(b) until he was finally handcuffed. PO Pilger was the arresting officer.

The 32nd Precinct's command log notes the arrests of § 87(2)(b) and § 87(2)(b) made by PO Pilger at 0020 hours on November 30, 2006. Their conditions were listed as normal, and § 87(2)(b) was released at 0120 hours on a § 87(2)(a) 160.50 summons. The command's prisoner holding pen roster also indicates that § 87(2)(b) and § 87(2)(b) were brought into the cells at 12:05am. § 87(2)(b) remained at the stationhouse until 0510 hours when he was removed to Central Booking; § 87(2)(b) was released at 0120 hours with a summons.

AIDED and Line of Duty Paperwork (Enclosures 24A-E, 25A-B)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Criminal Court Complaint (Enclosures 26A-B)

§ 87(2)(a) 160.50
§ 87(2)(a) 160.50

§ 87(2)(a) 160.50

Summonses (Enclosures 27A-C)

Summons # § 87(2)(b) was issued to § 87(2)(b) for § 87(2)(a) 160.50 for the incident which took place on November 29, 2006 at 11:51pm. Summons #s § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), and § 87(2)(b) were issued to § 87(2)(b) § 87(2)(a) 160.50

Status of the Criminal Charges (Enclosures 30A-R)

§ 87(2)(b)'s arrest pertaining to this incident was for an open warrant. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Summons Dispositions

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Criminal Conviction History (Enclosures 29A-E, 30A-R)

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

CCRB Histories

Civilians (Enclosures 4A-B)

This is the only CCRB complaint involving § 87(2)(b) § 87(2)(b) filed one CCRB complaint since this complaint. § 87(2)(b) § 87(2)(g)

Officers (Enclosures 3A-D)

Lieutenant Christopher Schmidt has been a member of the NYPD for 14 years. He has two substantiated allegations in his CCRB history for case #200202279, in which he stopped and frisked an individual. The CCRB recommended charges and Lt. Schmidt received a command discipline. § 87(4-b), § 87(2)(g) PO Erik Pilger has been a member of the NYPD for 4 years and has no substantiated allegations in his CCRB history. PO Carlos Pava and PO Christopher Derenze have been members of the NYPD for 9 years and 2 years respectively, and neither officer has any substantiated allegations in his CCRB history.

Conclusions and Recommendations

Officer Identification/Officers Not Interviewed

PO Erik Pilger was § 87(2)(b)'s arresting officer, and police documents indicated that he was working with Lt. Christopher Schmidt. PO Carlos Pava and PO Christopher Derenze were the officers who PO Pilger flagged down and assisted in arresting § 87(2)(b). The officers' memo books and CCRB statements confirmed their involvement and their specific roles in the incident.

§ 87(2)(g)

Undisputed Facts

It is not in dispute that Lt. Schmidt and PO Pilger stopped § 87(2)(b) in order to arrest him. It is additionally not in dispute that § 87(2)(b) would not comply with the officers, and as a result, Lt. Schmidt pepper sprayed him, PO Pilger struck § 87(2)(b) a number of times with his asp, and both officers, along with PO Pava and PO Derenze, used physical force to restrain and handcuff § 87(2)(b) § 87(2)(g).

Assessment of the Evidence

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) expressed that his vehicle was already pulled over when the officers approached, whereas Lt. Schmidt and PO Pilger stated that they pulled his vehicle over. § 87(2)(g)

PO Pilger noticed that § 87(2)(b)'s car windows were tinted and initially intended on issuing him a summons. When the officers ran § 87(2)(b)'s license plate, they learned of the open warrant. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

When § 87(2)(b) who had an open assault warrant, described his demeanor throughout the incident, he claimed to be calm and stated that he never raised his voice, resisted, or struggled with the officers. § 87(2)(b), § 87(2)(g)

The officers purported that § 87(2)(b) was irate and aggressive. According to § 87(2)(b) he admittedly “wanted to compromise” with the officers and did not initially comply with them but he described his demeanor as calm because he was scared of the officers. The officers, § 87(2)(g) stated that § 87(2)(b) was not compliant and fought with them, both verbally and physically, throughout the entire incident. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) alleged he was pepper sprayed, and the officers confirmed that. § 87(2)(b) claimed he was struck with an asp or nightstick, and the officers confirmed that as well. § 87(2)(b) stated that the officers grabbed onto him and took him to the ground, and the officers agreed, stating that physical force was utilized in order to restrain § 87(2)(b). It is not in question that these events and actions occurred; § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

According to PO Pilger, § 87(2)(b) was swinging his arms, attempting to strike him and Lt. Schmidt. Lt. Schmidt did not describe § 87(2)(b) swinging or kicking at him. However, § 87(2)(b) did but put his arms around Lt. Schmidt's torso in an attempt to get Lt. Schmidt off of him. § 87(2)(g)

§ 87(2)(b) and PO Pilger described that PO Pilger struck § 87(2)(b) a number of times, 6-10 according to PO Pilger, 15 according to § 87(2)(b) in the arm and leg. PO Pilger stated that he acted based up on his training in the Police Academy, striking § 87(2)(b) in those areas in an attempt to get him to the ground. § 87(2)(b) continued to struggle with the officers § 87(2)(g). Lt. Schmidt and PO Pilger, assisted by PO Pava, PO Derenze, and possibly a few additional officers, were eventually able to take § 87(2)(b) to the ground and restrain him. Once § 87(2)(b) was restrained, the officers did not use any additional force, and § 87(2)(b) did not allege this. § 87(2)(g)

Allegations Not Pleaded

§ 87(2)(b), § 87(2)(g)

Allegation A: Lieutenant Christopher Schmidt stopped § 87(2)(b)

PO Pilger stated that his attention was drawn to § 87(2)(b)'s vehicle because of tinted windows, and § 87(2)(b) admitted that his windows are in fact tinted. Lt. Schmidt did not recall the tinted windows, but both officers recalled that upon running § 87(2)(b)'s license plate, his open warrant appeared and at that point he was subject to arrest. § 87(2)(g)

Allegation B: Lieutenant Christopher Schmidt used pepper spray against § 87(2)(b)

Allegation C: Police Officer Erik Pilger struck § 87(2)(b) with an asp.

§ 87(2)(b), § 87(2)(g)

Allegation D: Lieutenant Christopher Schmidt used physical force against § 87(2)(b)

Allegation E: Police Officer Erik Pilger used physical force against § 87(2)(b)

Allegation F: Police Officer Carlos Pava used physical force against § 87(2)(b)

Allegation G: Police Officer Christopher Derenze used physical force against § 87(2)(b)

Allegation H: Officers used physical force against § 87(2)(b)

§ 87(2)(b) alleged that he was grabbed by the waist, tripped, and taken to the ground by “numerous officers.” § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: